

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE**

In re Patent Application of

SAID G. OSMAN

Serial No. 10/038,682

Filed: January 8, 2002

For: UNI-DIRECTIONAL DYNAMIC SPINAL FIXATION DEVICE

Atty. Ref.: 4077-2

TC/A.U.: 3732

Examiner: Davis, Daniel J.

\* \* \* \* \*

Commissioner for Patents

P.O. Box 1450

Alexandria, VA 22313-1450

Sir:

**DECLARATION**

Dr. Said G. Osman, hereby declares and states as follows:

1. I am the inventor of the Uni-Directional Dynamic Spinal Fixation Device (hereafter DEVICE) disclosed in the above-identified patent application and am the inventor named in the application.

2. I conceived the invention as claimed prior to June 6, 2001, the filing date of a provisional application No. 60/296,680 noted as a related application in publication No. U.S. 2002/0188296 A1 published December 12, 2002 and proceeded diligently to a constructive reduction to practice by filing the above-identified patent application on January 8, 2002.

3. Attached as Exhibit A is a copy of sketches, with dates redacted, I prepared prior to June 6, 2001 illustrating the DEVICE having first and second plates with openings to secure the plates to vertebrae. The illustrated plates have respective male and female parts with ratchet teeth engaging therebetween to enable progressive displacement

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of the plates relative to one another in directions to shorten the distance between the openings and to lock the plates to one another to prevent movement of the plates in a second opposite direction thereby compressing the bone graft between the vertebrae. In the top front view, there is also disclosed a plastic spacer to maintain the plates spaced during application. A channel configuration is also disclosed in the lower member with the upper male member received in the channel of the lower member.

4. Prior to June 6, 2001, I signed a non-disclosure agreement, a copy being attached as Exhibit B, with Spinal Concepts, Inc., a company interested in determining the advisability of entering into a business relationship with me for the manufacture and sale of the invention disclosed and claimed in the above-identified patent application.

5. On June 23, 2001 I had a meeting with Mr. Wagner representing Spinal Concepts, Inc. at which time the concept, engineering details and potential for sales of the DEVICE were discussed.

6. Attached hereto as Exhibit C is a copy of a letter from Mr. Wagner of Spinal Concepts Inc. dated prior to June 6, 2001 addressing technical aspects concerning the DEVICE. Attached hereto as Exhibit D is a letter dated July 12, 2001 from Declarant to Mr. Wagner of Spinal Concepts Inc. addressing those aspects. Also attached as Exhibit E is a copy of a drawing dated July 12, 2001 also forwarded to Mr. Wagner of Spinal Concepts on July 12, 2001.

7. On July 31, 2001 I forwarded a copy of the sketches of Exhibits A and E to my patent attorney, Mr. Richard C. Besha authorizing him to undertake the filing of a patent application on the DEVICE.

8. On or about August 23, 2001 I had a dinner meeting with Mr. Freid representing Spinal Concepts Inc. at which time various discussions occurred with respect to the technology, manufacture and sales of the DEVICE.

9. On August 30, 2001 I received an e-mail, a copy of which is attached as Exhibit F, from my patent attorney, Mr. Richard Besha indicating he was out of his office in the early parts of August on an extended business trip and was leaving for a vacation on August 30, 2001 returning September 10, 2001. The attached Exhibit F also indicated

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a desire by Mr. Besha to meet with Declarant to discuss the technology of the uni-directional dynamic spinal fixation device in connection with the preparation and filing of a patent application on the DEVICE.

10. Attached hereto as is a copy of a Declaration prepared by my patent attorney, Mr. Richard Besha. I have reviewed the attached Declaration and based on information and belief, I believe it to be accurate and true.

11. Between June 6, 2001 and January 8, 2002, I had contacts by telephone with various representatives of Spinal Concepts, Inc., all related to the development of the DEVICE, and a listing of outgoing telephone calls by date and time is set forth below as derived from telephone company invoices directed to my office for that time period.

Date	Time	Phone #	Spinal Concepts Associate
6/11/01	3:00 p.m.	443-415-7761	Local representative
6/25/01	10:20 a.m.	443-745-0642	Local representative
6/25/01	11:50 a.m.	972-529-5085	
7/10/01	10:18 a.m.	713-818-6861	Head office
7/11/01	10:37 a.m.	972-529-5085	
7/12/01	7:52 p.m.	512-918-2784	
7/23/01	3:42 p.m.	972-582-7820	
8/21/01	10:41 a.m.	281-358-3895	
8/21/01	3:05 p.m.	443-263-1721	
9/20/01	2:34 p.m.	210-738-1414	
10/15/01	10:41 a.m.	806-655-3057	
12/24/01	10:00 a.m.	972-529-5085	

12. I declare further that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001

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of Title 18 of the United States Code and that such willful false statements may  
jeopardize the validity of the application or any patent issuing thereon

Date:

9/16/04

  
SAID G. OSMAN